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*Attorneys for Plaintiffs,
and all others similarly situated*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JOHNNYE DUFF and JANELLE
HERNANDEZ AVITIA, individually
and on behalf of all others similarly
situated,

Plaintiffs,

v.

VXL ENTERPRISES LLC,

Defendant.

Case No. _____

**COLLECTIVE AND CLASS
ACTION COMPLAINT AND
JURY DEMAND**

INTRODUCTION

1. Plaintiffs Johnnye Duff and Janelle Hernandez Avitia (“Plaintiffs”) through their undersigned counsel, individually and on behalf of all others similarly situated, file this Class and Collective Action Complaint against

1 Defendant VXL Enterprises LLC (“Defendant” or “VXL”), seeking all available
2 relief under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.*
3 (“FLSA”) and the California Labor Code §§ 203, 204, and 510.
4

5 2. Plaintiffs were hired by VXL as registered nurses, supporting
6 COVID-19 patients in a prison setting, and allege that they and other similarly
7 situated VXL medical staff did not receive overtime pay for hours worked in
8 excess of forty (40) in a workweek, and did not receive wages owed upon
9 termination. The following allegations are based on personal knowledge as to
10 Plaintiffs’ own conduct and are made on information and belief as to the acts of
11 others.
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15 3. Plaintiffs bring their FLSA claim on behalf of a class of similarly
16 situated medical staff who have worked for VXL during the past three years who
17 may opt in to this case under the FLSA, 29 U.S.C. §§ 201, *et seq.* VXL has
18 violated the FLSA by failing to pay these individuals overtime compensation for
19 hours worked in excess of 40 a week.
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21

22 4. Plaintiffs also bring California state law claims under Rule 23 of the
23 Federal Rules of Civil Procedure on behalf of similarly situated medical staff who
24 have worked for VXL in California. VXL has violated the California Labor Code
25 by: (1) failing to pay VXL staff overtime compensation for hours worked in excess
26 of 40 a week; and (2) failing to pay Plaintiffs and the Class for all hours worked.
27
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1 5. Plaintiffs and other employees also experienced a number of
2 derivative issues from VXL's illegal wage and hour practices, including but not
3 limited to not receiving all pay owing to them at the end of their employment.
4 Additionally, compensation for off-the-clock work, and overtime, remains
5 outstanding after termination.
6
7

8 **JURISDICTION AND VENUE**

9 6. The jurisdiction of this court is invoked pursuant to 29 U.S.C. §1331
10 because Plaintiffs have brought claims under the FLSA.
11

12 7. This Court has supplemental jurisdiction over Plaintiffs' California
13 state law claims pursuant to 28 U.S.C. § 1367 because these claims are so related
14 to Plaintiffs' claims under the FLSA that they form part of the same case or
15 controversy.
16
17

18 8. This Court also has subject-matter jurisdiction over this proposed
19 class action pursuant to 28 U.S.C. § 1332(d), the Class Action Fairness Act
20 ("CAFA"). CAFA grants federal courts original jurisdiction over any class action
21 in which the proposed class has at least 100 members, any member of the proposed
22 class is a citizen of a state different from any defendant, and the matter in
23 controversy exceeds the sum of \$5 million, exclusive of interest and costs. At least
24 one putative Class member is a citizen of a state different from Defendant. On
25 information and belief, the amount in controversy exceeds \$5 million.
26
27
28

1 9. Venue is properly in the Central District of California under 28 U.S.C.
2 § 1391(b)(2), in that this is the judicial district in which a substantial part of the
3 events or omissions giving rise to the claims occurred.

4
5 **PARTIES**

6 10. Plaintiff Johnnye Duff is an individual citizen and resident of Norfolk,
7 Virginia. Plaintiff Duff, who worked for Defendant as a registered nurse, was
8 assigned to the Federal Correctional Institution, Lompoc, a low-level security
9 federal prison for male inmates in California, between approximately May 2020
10 and July 2020. Pursuant to 29 U.S.C. § 216(b), she has consented in writing to
11 being a Plaintiff in this action. *See* Exhibit A.

12 11. Plaintiff Janelle Hernandez Avitia is an individual citizen and resident
13 of Fresno, California. Plaintiff Hernandez Avitia, who worked for Defendant as a
14 registered nurse, was assigned to the Federal Correctional Institution, Lompoc,
15 between approximately May 2020 and June 2020. Pursuant to 29 U.S.C. § 216(b),
16 she has consented in writing to being a Plaintiff in this action. *See* Exhibit B.

17 12. Defendant VXL Enterprises LLC is a Virginia company, with its
18 principal place of business located at 701 Kenmore Ave., Ste. 230, Fredericksburg,
19 Virginia 22401, that touts itself as a provider of “long term and contingency
20 operation support, training, tactical and combat medical solutions, and critical
21 logistical support [].”

1 13. The FLSA “Collective Members” are all current and former hourly
2 paid staff of Defendant who were misclassified as independent contractors and
3
4 were not paid all hours worked in the three-year period before the filing of this
5 action to the present.

6 14. The “California Class Members” are all current and former hourly
7 paid staff of Defendant who were misclassified as independent contractors and
8
9 were not paid all hours worked in the four-year period before the filing of this
10 action to the present.

11 15. The FLSA Collective Members and California Class Members shall
12
13 be collectively referred to as “Class Members.”
14

15 **FACTUAL ALLEGATIONS**

16 16. In or around May 2020, Plaintiffs Johnnye Duff and Janelle
17
18 Hernandez Avitia were hired by VXL as part of a team of medical support staff in
19 a prison setting supporting COVID-19 patients. Plaintiffs, who are Registered
20 Nurses, were hired as independent contractors.
21

22 17. Plaintiffs’ contracts provide that they were to be paid at an hourly rate
23
24 of \$92.14. Plaintiffs also were to be paid per diem for the duration of days
25 employed, and Defendant was to provide them with transportation, lodgings and
26 meals.
27

28 18. Plaintiffs performed their work for VXL at Lompoc, Federal

1 Correction Institution, which is located in the Lompoc, California. VXL also hired
2 medical support staff, whom VXL similarly misclassified as independent
3 contractors, to support COVID-19 patients at three other prisons located in
4 California: the California State Correctional Facility located in San Quentin,
5 California, Folsom State Prison, and Avenal State Prison. Many Class members
6 were assigned by VXL to work as independent contractors at more than one of
7 these prisons.
8
9
10

11 19. As here, VXL paid Class members on an hourly basis at the San
12 Quintin, Folsom, and Avenal prisons and, although Class members assigned to
13 each of these prisons typically worked twelve or more hours per day, VXL failed
14 to pay them any overtime compensation for their work in excess of 40 hours per
15 week.
16
17

18 20. On March 23, 2021, the undersigned counsel for Plaintiffs filed a
19 similar collective and class action against VXL in the U.S. District Court for the
20 Northern District of California alleging that the Company misclassified its San
21 Quintin medical staff as independent contractors. *See Leslie Avant v. VXL*
22 *Enterprises LLC*, No. 4:21-cv-02016-YGR (N.D. Cal.).
23
24

25 21. At the Lompoc prison, where Plaintiffs worked, there were
26 approximately fifteen (15) nursing staff, three (3) physicians' assistants, three (3)
27 to four (4) physicians, two (2) pharmacists, two (2) lab technicians, and ten (10)
28

1 EMTs/paramedics, performing work for VXL. Similarly, at the San Quentin
2 location, VXL assigned anywhere from forty (40) to fifty (50) nursing staff, ten
3 (10) to twenty (20) physicians, two (2) pharmacists, two (2) lab technicians and
4 approximately ten (10) to twenty (20) Paramedics.
5

6 22. Defendant provided transportation, lodgings and meals to Plaintiffs
7 and other Class Members. VXL also provided scrubs and personal protective
8 equipment (“PPE”) to Plaintiffs and other Class Members. VXL promised to pay
9 Plaintiffs and Class Members beginning the day they left their home residences
10 until they landed back at their home residence.
11

12 23. On May 7, 2020, Plaintiff Duff left her home and took a plane bound
13 for Los Angeles.
14

15 24. On or about May 8, 2020, Plaintiff Duff began her orientation. The
16 next day, on or about May 9, 2020, Plaintiff Duff started performing her duties as a
17 Registered Nurse at the Lompoc prison location, including stocking the facility and
18 unloading equipment.
19

20 25. Plaintiff Hernandez Avitia also started performing duties as a
21 Registered Nurse at the Lompoc prison location in early May 2020.
22

23 26. Plaintiffs and other Class Members were only paid for twelve (12)
24 hours each day, as VXL utilized a 12-hour push schedule. Specifically, Plaintiffs
25 and Class Members were told that the contract could only pay them for 24 hours
26
27
28

1 split between day shift and night shift, so they would only get paid for 12 hours.

2 27. Plaintiffs and other Class Members were not paid overtime
3 compensation (*i.e.*, one a half times their regular rate/hourly wage and/or double
4 their regular rate/hourly wage) for hours they worked over eight hours in a
5 workday or for hours they worked in excess of forty (40) hours a week.
6
7

8 28. Plaintiffs and other Class Members were required to gather together
9 and then travel to the prison facility in vehicles before the beginning of their
10 scheduled twelve-hour shifts and to attend briefings and be escorted from the
11 prison after their scheduled twelve-hour shifts were completed. Plaintiffs and other
12 Class Members were not compensated for this time.
13
14

15 29. VXL routinely required purported independent contractor medical
16 staff to meet early and they were not permitted to leave until they were relieved by
17 other VXL medical staff. Plaintiffs were expected to maintain 12 hours total inside
18 of the prison walls.
19
20

21 30. Plaintiffs and Class Members perform a service in the usual course of
22 VXL's business, since VXL advertises, promotes, and engages in a medical
23 services division that provides, in Defendant's words, "robust ongoing and
24 contingency operation medical support," and VXL is a provider of "long term and
25 contingency operation support, training, tactical and combat medical solutions, and
26 critical logistical support []."
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1 31. Plaintiffs and Class Members have provided such medical support
2 service on behalf of VXL. The medical staff at the Lompoc facility (and other
3 California prisons) are integral to VXL's business. Without registered nurses,
4 paramedics/emergency medical technicians ("EMT"), pharmacists, certified
5 nursing assistants ("CNA"), lab technicians, and other medical support staff, VXL
6 could not offer the services it provides in the usual course of its business.
7

8
9 32. Plaintiffs and Class Members were also required to abide by a litany
10 of VXL-mandated policies and rules designed to control the performance of their
11 work. Plaintiffs and Class Members were not free to perform their work in the
12 manner they wished, and instead, they were regularly and constantly
13 micromanaged to ensure things were done VXL's way.
14

15
16 33. VXL determined Plaintiffs' and Class Members' shift/work hours and
17 required Plaintiffs and Class Members to check in and inform VXL where they
18 were at all times via an "accountability" chat. VXL told workers when to be at
19 work, required them to do a morning and evening "huddle," and instructed them on
20 how to variously prepare paperwork.
21

22
23 34. VXL also imposed upon Plaintiffs and Class Members a set of
24 uniform "Standard Operating Procedures," which included promulgating rules
25 covering a wide range of medical issues, including infection control, patient intake,
26 and inventory.
27
28

1 35. VXL arranged and controlled all transportation provided to Plaintiffs
2 and Class Members. VXL booked and paid for flights, rented hotel rooms, and
3 provided cars for the workers to carpool to and from the hotel and the worksite.
4

5 36. Plaintiffs and Class Members were not allowed to work for other
6 employers who provide the “same or similar services” as VXL while working for
7 VXL. Additionally, all tools and materials required to perform the job were
8 provided by VXL, including scrubs or uniforms, PPE, stethoscopes and other
9 medical equipment, and even pens. VXL also provided workers’ compensation
10 insurance for Plaintiffs and Class Members.
11

12 37. VXL’s opportunity for profit and loss far exceeded Plaintiffs’ and
13 Class Members’ opportunity for profit and loss. VXL also made all hiring
14 decisions.
15

16 38. Plaintiffs and Class Members were required to do VXL-work-related
17 business that resulted in days greater than 12 hours, although they were only
18 compensated for 12 hours of work. Plaintiffs and Class Members routinely worked
19 over 13 hours a day, resulting in at least an hour of unpaid work each day. Thus,
20 Plaintiffs and Class Members did not receive all compensation they were owed
21 from VXL.
22

23 39. VXL willfully misclassified Plaintiffs and Class Members as
24 independent contractors. Plaintiffs, and those similarly situated, are current and/or
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1 former medical staff who were employed by VXL to perform work throughout the
2 State of California.

3
4 40. Plaintiffs and the other Collective and California Class members were
5 not paid a minimum guaranteed salary. Plaintiffs and other Collective and
6 California Class members were paid hourly, and were paid only for the time they
7 work. If they did not work, they did not get paid.
8

9 41. Plaintiffs and other Collective and California Class members who
10 worked for VXL worked significant amounts of overtime. On average, Plaintiffs
11 and other Collective and Class members worked over 12 hours per day, 7 days per
12 week.
13
14

15 42. Although Plaintiffs and the other medical support staff worked 12 or
16 more hours each day, they were not provided with required meal or rest breaks
17 during their shifts. Moreover, Plaintiffs and Class Members were not allowed to
18 leave their work site without permission from a supervisor.
19

20 43. Plaintiffs and all other Class Members were paid on an hourly basis.
21 They did not receive any overtime compensation and it was VXL's uniform policy
22 not to pay Plaintiffs and all other Collective and California Class members
23 overtime.
24
25

26 44. Plaintiffs and the other California Class members received pay stubs
27 which failed to list all the hours they worked, or listed the hours they worked
28

1 incorrectly. For example, Plaintiffs' paystubs listed a number of hours worked at
2 their straight hourly rate, and an additional lump sum amount of pay, not broken
3 down by hours.
4

5 **COLLECTIVE AND CLASS ACTION ALLEGATIONS**

6
7 45. Plaintiffs bring this action as a collective action under §216(b) of the
8 FLSA, 29 U.S.C. §201, *et seq.* The putative members of the collective class action
9 under the FLSA consist of all individuals who in the last three years were
10 employed by Defendant in California, and who were: (a) misclassified as
11 independent contractors; and/or (b) were not fully compensated for this time
12 worked over forty hours per week at overtime rates (the "Collective").
13
14

15 46. Plaintiffs, individually and on behalf of other similarly situated
16 persons defined above, seek relief on a collective basis challenging Defendant's
17 policy and practice of failing to properly pay Plaintiffs for all hours worked,
18 including overtime compensation. The number and identity of other similarly
19 situated persons yet to opt-in and consent to be party-plaintiffs may be determined
20 from the records of VXL, and potential opt-ins may be easily and quickly notified
21 of the pendency of this action.
22
23
24

25 47. Defendant improperly benefited from Plaintiffs' and the Collective
26 Members' uncompensated work. Defendant failed to pay Plaintiffs and Collective
27 Members time-and-one-half their regular rate of pay for all hours worked beyond
28

1 forty (40) hours in a workweek.

2 48. Plaintiffs' claims for violations of the FLSA may be brought and
3 maintained as an "opt-in" collective action pursuant to Section 216(b) of the
4 FLSA, because Plaintiffs' FLSA claims are similar to the claims of the members of
5 the Collective.
6

7
8 49. The members of the Collective are similarly situated, as they are
9 subject to a common policy, practice, or plan that requires them to perform work
10 "off-the-clock" and without compensation in violation of the FLSA. Defendant's
11 unlawful conduct has been widespread, repeated and consistent. Moreover,
12 Defendant's conduct was willful and in bad faith and has caused significant
13 damages to Plaintiffs and the Collective Class.
14

15
16 50. Defendant is liable under the FLSA for failing to properly compensate
17 Plaintiffs and the Collective, and, as such, notice should be sent out to the FLSA
18 Collective. There are numerous similarly situated, current and former employees of
19 the Defendant who have been denied wages in violation of the FLSA who would
20 benefit from the issuance of a Court supervised notice of the present lawsuit and
21 the opportunity to join in the action pursuant to 29 U.S.C. § 216(b) for the purpose
22 of collectively adjudicating their claims for unpaid wages, unpaid overtime
23 compensation, liquidated damages, and attorneys' fees and costs under the FLSA.
24
25 Those similarly situated employees are known to Defendant and are readily
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1 identifiable through Defendant's records.

2
3 51. Plaintiffs also bring this case as a class action under Rule 23 of the
4 Federal Rules of Civil Procedure, on behalf of all individuals who were employed
5 by Defendant in California, and who were: (a) misclassified as independent
6 contractors; and/or (b) were not fully compensated for their time worked over forty
7 (40) hours per week at overtime rates (the "California Class").
8

9 52. *Numerosity*. The number of members in the California Class exceeds
10 forty and in fact, is likely to be in the hundreds. This volume makes bringing the
11 claims of each individual member of the class before this Court impracticable.
12 Likewise, joining each individual member of the California Class as a plaintiff in
13 this action is impracticable. Furthermore, the identity of the members of the
14 California Class will be determined from Defendant's records, as will the
15 compensation paid to each of them. As such, a class action is a reasonable and
16 practical means of resolving these claims. To require individual actions would
17 prejudice the California Class and Defendant.
18
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22 53. *Typicality*. Plaintiffs' claims are typical of the California Class.
23 Defendant's uniform policies and practices in violation of the law as alleged herein
24 have caused Plaintiffs to sustain the same or similar injuries and damages.
25 Defendant misclassified California Class members as independent contractors and
26 failed to pay the California Class Members for all hours they worked. Additionally,
27
28

1 members of the California Class worked substantially more than eight (8) hours in
2 a day and forty (40) hours in a week as independent contractors. Further, the
3 California Class Members were not paid the proper rate for overtime to which they
4 were entitled under California law. Moreover, the California Class Members each
5 received wage statements that failed to comply with California law. Thus,
6
7 Plaintiffs and the California Class have been uncompensated and/or under-
8 compensated as a result of Defendant's common policies and practices that failed
9 to comply with California law. As such, Plaintiffs' claims are typical of the claims
10 of the California Class.
11
12

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14 54. *Adequacy.* Plaintiffs are representative parties who will fairly and
15 adequately protect the interests of the California Class because it is in their interest
16 to effectively prosecute the claims herein alleged in order to obtain the unpaid
17 wages and penalties required under California law. Plaintiffs have retained
18 attorneys who are competent and experienced in both class actions and wage and
19 hour litigation. Plaintiffs do not have any interest that may be contrary to or in
20 conflict with the claims of the California Class they seek to represent.
21
22

23 55. *Existence and Predominance of Common Questions.* Common issues
24 of fact and law predominate over any individual questions in this matter. The
25 common issues of fact and law include, but are not limited to:
26
27

28 a. Whether Plaintiffs and the California Class were misclassified as

- independent contractors;
- b. Whether Defendant failed to compensate Plaintiffs and the California Class for all hours worked, including overtime compensation, in violation of the California Labor Code and Wage Orders;
- c. Whether Defendant failed to timely pay Plaintiffs and the California Class unpaid wages and overtime due upon their separation from employment with Defendant;
- d. Whether Plaintiffs and the California Class are entitled to compensatory damages;
- e. The proper measure of damages sustained by Plaintiffs and the California Class; and
- f. Whether Defendant's conduct was "willful."

56. *Superiority.* A class action is superior to other available means for the fair and efficient adjudication of this lawsuit. Even in the event any member of the California Class could afford to pursue individual litigation against a company the size of Defendant, doing so would unduly burden the court system. Individual litigation would magnify the delay and expense to all parties and flood the court system with duplicative lawsuits. Prosecution of separate actions by individual members of the California Class would create the risk of inconsistent or varying judicial results and establish incompatible standards of conduct for Defendant.

57. Without a class action, Defendant will retain the benefit of its wrongdoing and will continue a course of action that will result in further damages

1 to Plaintiffs and the California Class. Plaintiffs envision no difficulty in the
2 management of this action as a class action.
3

4 58. The claims of the named Plaintiffs are representative of and similar to
5 the claims of the California Class, the named Plaintiffs and their attorneys can
6 adequately protect the interests of the California Class and are not in conflict with
7 any members of the California Class. The claims of the named Plaintiffs are typical
8 of the claims of the California Class. Further, treating this action as a class and
9 collective action would be far preferable to permitting numerous individual
10 actions. Further, since all of the members of the California Class were subject to
11 the same overarching violations of law, namely being deprived of overtime pay,
12 being required to work off-the-clock, being deprived of accurate wage statements,
13 and being deprived of meal and rest breaks, there are common issues of law and
14 fact that will predominate over individualized issues.
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18

19 **FIRST CLAIM FOR RELIEF**
20

21 Violation of Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*
22 On Behalf of Plaintiffs and the FLSA Collective Class

23 59. Plaintiffs incorporate by reference the allegations set forth above as
24 though fully restated herein.
25

26 60. The FLSA requires that covered employees be compensated for all
27 hours worked in excess of forty (40) hours per week at a rate not less than one and
28

1 one-half (1 ½) times the regular rate at which he is employed. *See* 29 U.S.C. §
2 207(a)(1).
3

4 61. The FLSA defines “employer” broadly to include “any person acting
5 directly or indirectly in the interest of an employer in relation to an employee...”
6 29 U.S.C. § 203(d).
7

8 62. VXL is subject to the wage requirements of the FLSA because VXL is
9 an employer under 29 U.S.C. § 203(d).
10

11 63. At all relevant times, VXL was an “employer” engaged in interstate
12 commerce and/or in the production of goods for commerce, within the meaning of
13 the FLSA, 29 U.S.C. § 203.
14

15 64. During all relevant times, Plaintiffs and the Collective Members were
16 covered employees entitled to the above-described protections of the FLSA. *See* 29
17 U.S.C. § 203(e).
18

19 65. Plaintiffs and the Collective Members are not exempt from the
20 requirements of the FLSA.
21

22 66. Plaintiffs and the Collective Members are entitled to be paid overtime
23 compensation for all hours worked over forty (40) in a workweek pursuant to 29
24 U.S.C. § 207(a)(1).
25

26 67. By misclassifying Plaintiffs and the FLSA Collective Members as
27 independent contractors, thereby exempting them from the requirements of the
28

FLSA, VXL knowingly failed to compensate Plaintiffs and Collective Members at a rate of one and one-half (1 ½) times their regular hourly wage for hours worked in excess of forty (40) hours per week, in violation of 29 U.S.C. § 207(a)(1). Plaintiffs and the Collective Members were also not paid the full amount of overtime wages due under the FLSA as a result of Defendant's failure and refusal to include all remuneration in the calculation of the regular rate of pay for purposes of paying overtime wages.

68. In violating the FLSA, VXL acted willfully and with reckless disregard of clearly applicable FLSA provisions.

69. In violating the FLSA, on information and belief, VXL did not have any good faith basis to rely on any legal opinion or advice to the contrary.

70. This claim is brought on behalf of a class of similarly situated individuals who may choose to "opt in" to this case, pursuant to 29 U.S.C. § 216(b).

SECOND CLAIM FOR RELIEF

Failure to Pay All Wages and Overtime
Violation of Cal. Labor Code §§ 204, 510 and 1194
On Behalf of Plaintiffs and the California Class

71. Plaintiffs incorporate by reference the allegations set forth above as though fully restated herein.

72. Under California law, Defendant was required to pay wages for each hour worked and overtime wages at one-and-a-half times the employee's regular rate of pay for all hours worked in excess of eight, up to and including 12 hours in a workday, and double the employee's regular rate of pay for all hours worked in excess of 12 in a workday.

73. VXL failed to pay Plaintiffs and Class Members overtime at the appropriate rate required by Cal. Lab. Code §510, since Plaintiffs and Class Members worked for Defendant without being paid overtime.

74. Pursuant to Cal. Lab. Code §1194, Plaintiffs and California Class members are entitled to recovery of unpaid compensation, including overtime, as well as attorneys' fees and costs.

THIRD CLAIM FOR RELIEF

Willful Failure to Pay all Wages Upon Separation
Violation Of Cal. Labor Code §§ 201, 202, 203
On Behalf of Plaintiffs and the California Class

75. Plaintiffs incorporate by reference the allegations set forth above as though fully restated herein.

76. California Labor Code §§ 201 and 202 require that employers pay all employees all wages immediately upon employer termination or within 72 hours after employee resignation. California Labor Code § 203 provides that in instances that an employer willfully fails to pay all wages owing within the proscribed time

1 limits, the employer must continue to pay the subject employee wages until the
2 wages are paid in full. An employee need not prove malice or intentional conduct
3 in establishing a claim for waiting time penalties, but rather must merely establish
4 that the employer did not pay as it was obligated to do.
5

6
7 77. Where an employer willfully fails to pay discharged or resigning
8 employees all wages due as required under the California Labor Code, the
9 employer is liable to such employees under California Labor Code § 203 for
10 waiting time penalties in the amount of one (1) day's compensation at the
11 employees' regular rate of pay for each day the wages are withheld, up to thirty
12 (30) days.
13
14

15 78. Plaintiffs and other members of the California Class have been
16 terminated and/or left their employment with Defendant during the statutory
17 period. At the time Plaintiffs' and other California Class members' employment
18 ended with Defendant, Defendant owed Plaintiffs and other California Class
19 members unpaid wages.
20
21

22 79. Defendant willfully refused to timely pay all the wages that were due
23 and owing, including overtime pay and premium pay for missed meal and rest
24 breaks, to Plaintiffs and all other proposed California Class members whose
25 employment with Defendant has ended or been terminated at any point during the
26 statutory period.
27
28

1 80. Accordingly, during all relevant times, Defendant knowingly and
 2 willfully violated California Labor Code §§ 201 and 202 by failing to pay Plaintiffs
 3 and California Class members who are no longer employed by Defendant all
 4 wages owed as alleged herein. Defendant is therefore liable to Plaintiffs and other
 5 formerly employed members of the proposed California Class for waiting time
 6 penalties as required by California Labor Code §§ 203 and 218.
 7

8 81. Plaintiffs on behalf of themselves and on behalf of California Class
 9 members who are no longer employed by Defendant, respectfully request that the
 10 Court award all waiting time penalties due, and the relief requested below in the
 11 Prayer for Relief.
 12
 13
 14

15 **PRAYER FOR RELIEF**

16
 17 **Plaintiffs, on behalf of themselves and the Collective Class, pray that the**
 18 **Court:**
 19

- 20 a. Allow Plaintiffs to give notice of this collective action, or that the
 21 Court issue such notice, to the Collective Members as defined herein
 22 so that such persons shall be informed that this civil action has been
 23 filed, of the nature of the action, and of their right to join the FLSA
 24 collective suit if they believe they were denied unpaid wages;
 25
- 26 b. Certify that this action may proceed as a collective action under 29
 27 U.S.C. § 216(b) and class action under Fed. R. Civ. P. 23;
 28

- c. Appointment of Plaintiffs' counsel as Lead Counsel for the Collective Class;
- d. Order preliminary, permanent, mandatory injunctive relief prohibiting Defendant, their officers, agents, and all those acting in concert with it, from committing in the future those violations of law herein alleged;
- e. Find that Defendant's policies and/or practices described above violate the FLSA;
- f. An award of damages, liquidated damages, restitution, and/or statutory penalties to be paid by Defendant for the claims alleged herein;
- g. An award interest, costs, and expenses, including reasonable attorneys' fees and expert fees; and
- h. All such other relief the Court deems just and proper.

**Plaintiffs, on behalf of themselves and the California Class Members,
pray that the Court:**

- a. Certification of this action as a class action pursuant to Federal Rule 23 and the appointment of Plaintiffs as the representative of the California Class and Plaintiffs' counsel as Lead Counsel for the California Class;

- b. An award to Plaintiffs and California Class members of damages for the amount of unpaid overtime in addition to interest subject to proof;
- c. An award to Plaintiffs and California Class members of any waiting time penalties under § 203 et seq. of the California Labor Code;
- d. An award to Plaintiffs and California Class members of restitution under the UCL;
- e. An award of pre- and post-judgment interest on all monetary relief prayed for above, as may be permitted by law;
- f. An award of reasonable attorneys' fees pursuant to sections 226(e) and 1194 of the California Labor Code and/or pursuant to Cal. Code of Civ. Procedure section 1021.5;
- g. An award of costs of suit;
- h. A declaratory judgment that the practices complained of herein are unlawful under the California Labor Code and/or the UCL;
- i. All such other relief as this Court shall deem just and proper.

Dated: November 10, 2021

Respectfully submitted,

By: /s/ Daniel Feder

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10 *Attorneys for Plaintiffs*
11 *and the putative class*
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PLAINTIFFS DEMAND TRIAL BY JURY.

Dated: November 11 2021

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By: /s/ Daniel Feder

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*Attorneys for Plaintiffs
and the putative class*

EXHIBIT A

CONSENT TO JOIN CLASS AND COLLECTIVE ACTION

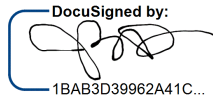
1. I consent and agree to pursue my claims arising out my employment with VXL Enterprises, LLC and/or related entities and individuals ("VXL").

2. I work/worked as an independent contractor for VXL from on or about May 2020 (month, year) to on or about July 2020 (month, year) at the following location(s) Lompoc Federal Correction.

3. I understand that this lawsuit is brought under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* I hereby consent, agree, and "opt in" to become a plaintiff in this lawsuit and to be bound by any judgment by the Court or any settlement of this action.

4. I hereby designate Plaintiffs' Counsel, the Law Offices of Daniel Feder, in San Francisco, California; and Edelson Lechtzin LLP, in Newtown, Pennsylvania (collectively, the "Firms"), to represent me for all purposes in this action.

5. I also designate the named plaintiff in this action, the collective action representative, as my agent to make decisions on my behalf concerning the litigation, including the method and manner of conducting this litigation, entering into settlement agreements, entering into an agreement with the Firms concerning representation (with the understanding that the Firms are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys' fees) and all other matters pertaining to this lawsuit.

Signature:  _____

Date: 10/30/2021

Name: Johnnye Duff

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COMPLETE AND RETURN TO:

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EXHIBIT B

CONSENT TO JOIN CLASS AND COLLECTIVE ACTION


1. I consent and agree to pursue my claims arising out my employment with VXL Enterprises, LLC and/or related entities and individuals ("VXL").

2. I work/worked as an independent contractor for VXL from on or about May, 2020 (month, year) to on or about June 2020 (month, year) at the following location(s) Lompoc, Ca.

3. I understand that this lawsuit is brought under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* I hereby consent, agree, and "opt in" to become a plaintiff in this lawsuit and to be bound by any judgment by the Court or any settlement of this action.

4. I hereby designate Plaintiffs' Counsel, the Law Offices of Daniel Feder, in San Francisco, California; and Edelson Lechtzin LLP, in Newtown, Pennsylvania (collectively, the "Firms"), to represent me for all purposes in this action.

5. I also designate the named plaintiff in this action, the collective action representative, as my agent to make decisions on my behalf concerning the litigation, including the method and manner of conducting this litigation, entering into settlement agreements, entering into an agreement with the Firms concerning representation (with the understanding that the Firms are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys' fees) and all other matters pertaining to this lawsuit.

Signature:  CFAD6ED4E2E14F9...

Date: 11/9/2021

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